

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TAMARA MOORE, et al.,

Plaintiffs,

v.

MARS PETCARE US, INC., et al.,

Defendants.

Case No. [16-cv-07001-MMC](#)

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFFS'
MOTION TO STRIKE**

Re: Dkt. No. 297

Before the Court is plaintiffs' "Motion to Strike Sarah Butler's Untimely Declaration, or, in the Alternative, Grant Plaintiffs' Leave to Submit a Responsive Declaration by Dr. Rebecca Reed-Arthurs." (See Dkt. No. 297 (Pls. Mot.).) Defendants have filed opposition, to which plaintiffs have replied.

By the instant motion, plaintiffs seek to strike the "June 27, 2023 Declaration of Sarah Butler," which was submitted by defendants in support of Hill's opposition to class certification and defendants' motions to exclude expert testimony. (See Dkt. No. 280 (Chanoine Decl.) ¶ 26, Ex. Y (Butler Decl.).) In support thereof, plaintiffs contend the declaration improperly includes an expert opinion offered for the first time after the deadline for expert discovery and, as an alternative to striking, submit a proposed additional declaration by Rebecca Reed-Arthurs. In response, defendants state Butler's declaration is submitted to counter what defendants assert is "a statement that [Reed-Arthurs] offered for the first time during her June 8, 2023 deposition" (see Dkt. No 331 (Defs.' Opp'n) at 1:2-3), a date likewise after the expert disclosure deadline.

Having reviewed all of the above, the Court finds that, to the extent Reed-Arthurs's deposition arguably reflects any new opinion, Butler's response thereto constitutes


1 straightforward, indeed simple, mathematical calculations using data provided in Reed-
2 Arthurs's earlier reports, and the proposed additional declaration by Reed-Arthurs, to the
3 extent it adds anything new, primarily comprises similar straightforward calculations.

4 Accordingly, to the extent plaintiffs seek to strike Butler's declaration, the motion is
5 hereby DENIED, and, to the extent plaintiffs seek leave to submit Reed-Arthurs's
6 proposed additional declaration, the motion is hereby GRANTED.

7 In light thereof, the hearing on the above-referenced Motion to Strike, currently
8 scheduled for November 17, 2023, is hereby VACATED. The remaining motions set for
9 hearing on that date remain as scheduled.

10
11 **IT IS SO ORDERED.**

12
13 Dated: November 13, 2023

14 
15 MAXINE M. CHESNEY
16 United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28